

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SERGEY CHERNYSH *on behalf of himself and all
others similarly situated,*

Plaintiff,

-against-

CHEMBIO DIAGNOSTICS, INC., et al.,

Defendants.

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JAMES GOWEN *Individually and on Behalf of All
Others Similarly Situated,*

Plaintiff,

-against-

CHEMBIO DIAGNOSTICS, INC., et al.,

Defendants.

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ANTHONY BAILEY *Individually and on Behalf of All
Others Similarly Situated,*

Plaintiff,

-against-

CHEMBIO DIAGNOSTICS, INC., et al.,

Defendants.

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SPECIAL SITUATIONS FUND III QP, L.P.
SPECIAL SITUATIONS CAYMAN FUND, L.P.,
and SPECIAL SITUATIONS PRIVATE EQUITY
FUND, L.P., Individually and on Behalf of all
Others Similarly Situated,

Plaintiffs,

-against-

ORDER

20-2706 (ARR) (ARL)

20-2758 (ARR) (ARL)

20-2961 (ARR) (ARL)

20-3753 (ARR) (ARL)

CHEMBIO DIAGNOSTICS, INC., et al.,

Defendants.

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LINDSAY, Magistrate Judge:

By order dated December 29, 2020, the Court consolidated the above-captioned actions and appointed the movants, Special Situations Fund III QP, L.P. (“Fund III”), Special Situations Cayman Fund, L.P. (“Cayman Fund”), and Special Situations Private Equity Fund, L.P. (“PE Fund”)(collectively, the “Funds”) and Municipal Employees’ Retirement System of Michigan (“MERS”), as co-lead plaintiffs in the securities actions. In addition, the Court ordered that the lead-plaintiffs’ choice of counsel were to be appointed as co-lead counsel. According to counsel for the Funds, at the time the Funds moved for appointment as lead plaintiff, it was contemplated that during the pendency of the application their attorneys at Lowenstein Sandler LLP (“Lowenstein”) would transfer to a new firm, Rolnick Kramer Sadighi LLP (“RKS”) and would continue to represent the Funds as lead counsel at their new firm. The Funds’ selected counsel has now left Lowenstein and joined RKS. Accordingly, the Funds have submitted a motion pursuant to Federal Rule of Civil Procedure 60(a) seeking to amend the December 29, 2020 order *nunc pro tunc* for the purpose of changing the reference to lead plaintiffs’ choice of counsel from Lowenstein to RKS. The motion to amend was filed on January 6, 2021, and to date, no party has objected. In addition, RKS advises that they have conferred with counsel for the defendants, Chembio Diagnostics, Inc., Richard L. Eberly, Gail S. Page, Robert W. Baird & Co. Inc. and Dougherty & Company LLC. as well as with MERS’s counsel at Robbins Geller Rudman & Dowd LLP, who have advised that they do not object to the Funds’ application. Accordingly, the motion is granted.

Dated: Central Islip, New York
January 22, 2021

SO ORDERED:

_____/s_____
ARLENE R. LINDSAY
United States Magistrate Judge